REMARKS

Initially, Applicants note that the presently outstanding Office Action has been made final. Applicants respectfully request the Examiner to withdraw the finality of the present Office Action as being premature.

As stated by the Manual of Patent Examining Procedure, before a final rejection is in order, a clear issue should be developed between the examiner and applicant. MPEP §706.07. The Examiner's switching from one reference to another in successive actions in rejecting claims of substantially the same subject matter, will tend to defeat attaining the goal of reaching a clearly defined issue for an early termination. Id. While the rules no longer give to an applicant the right to "amend as often as the examiner presents new references or reasons for rejection," present practice does not sanction hasty and ill-considered final rejections. Id. The applicant who is seeking to define his or her invention in claims that will give him the patent protection to which he is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his application. Id. The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal.

In the present case, the Applicants have not attempted to delay prosecution in any manner. Although there have been several Office Actions presented in this case and a Request for Continued Examination has already been presented once in this case, the Applicants have continuously obtained representation to respond to the Office Actions through their attorneys of record, despite the fact that prior representatives for Applicants appeared not to understand some of the issues set forth in those earlier Office Actions. Now prior to receipt of the final rejection in the currently outstanding Office Action, Applicants have provided claims that are, at least implicitly, acknowledged by the Examiner to overcome the rejections set forth in the prior Office Actions. Instead, the Examiner has switched to a new, previously uncited and undisclosed reference, namely, Lomen et al. U.S. Patent No. 2,920,664. to reject the claims of the present invention. To make this Action a final rejection of the claims without first giving the Applicants an opportunity to amend the claims in a manner that would afford them patent

protection to which they are justly entitled would not be just and fair. Certainly, no clear issue has yet been developed between the Applicants and the Examiner such that this case is ready for final disposition.

The undersigned attorney would also point out that it is the Office's leadership that has continuously indicated that the filing of continuation and requests for continued examination should be more limited. However, by making premature final rejections, the Applicants would have no choice but to file a second request for continued examination in order to get their amendments to the claims in light of the newly cited art reviewed *for the first time*! Filing a second request for continued examination would be a waste of time, energy and resources of the Applicants, the Office, the undersigned attorney and the Examiner. Therefore, Applicants respectfully request the Examiner to reconsider the finality of the presently outstanding Office Action and to consider the amendments and argument presented herein.

Turning to the Office Action, the Examiner has first rejected claim 10 under 35 U.S.C. §112, second paragraph, as being indefinite as to the meaning of "biases the hub and tire assembly" and as to which the hub and tire assembly is a part of the invention. In response thereto, the Applicants have amended claim 10 to change the word "biases" to –tilts—and to insert the hub and tire assembly in the preamble of the claim as requested by the Examiner. In light of both of these amendments, it is believed that this rejection of claim 10 has been rendered moot.

With respect to the prior art, the Examiner has asserted that claims 1, 3-4 and 8-10 are anticipated by Lomen et al. and that claim 7 is unpatentable, as obvious, over that reference in view of Smith. The Applicants have reviewed these references and have amended the claims to more particularly point out their invention as compared to this cited prior art. Clearly, the claims as amended are not anticipated or rendered obvious by the cited prior art.

In particular, claim 1 now provides that the hub and tire assembly is solely supported by the hub engagement and stop structure. Clearly, this is not the case with the Lomen reference which teaches a tire demounting stand wherein a table 20 is tilted to receive the tire and rim of the hub. Thus, while Lomen et al. may engage the hub at its center opening through

the use of a cone washer 30, this is not the sole engagement mechanism that secures the hub and tire assembly in Lomen et al. to the demounting stand 1. The hub and tire in Lomen et al. must also rest on the table 20 to provide for a sufficient clamping of the hub so that the tire may be removed or demounted therefrom. In contrast, the device of the present invention solely engages the hub and tire assembly at the center opening of the hub, and the hub and tire assembly is solely supported by the hub engagement and stop structure. Clearly, this is not shown, suggested or rendered obvious by Lomen et al.

In light of the foregoing amendments and argument presented above, Applicants believe their invention is patentable over the cited prior art. Accordingly, Applicants respectfully request reconsideration of the finality of the application and of the rejections with a view toward allowance. A Notice of Allowance of Claims 1, 3, 4, and 7-10 is earnestly solicited. Should the Examiner wish to discuss any of the foregoing in more detail, the undersigned attorney would welcome a telephone call.

No new claims have been added and therefore no additional fees are believed due at this time. However, should a fee be required for the filing of this document and is missing or insufficient, the undersigned attorney hereby authorizes the Commissioner to charge payment of any fees associated with this communication or to credit any overpayment to Deposit Account No. 18-0987.

Respectfully submitted,

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